IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

CRP.No. 1071 of 2007

AGAINST THE ORDER DATED 22/09/2007 IN EA 1/2004 IN EP.1/2004 OF DISTRICT COURT, PATHANAMTHITTA.

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REVISION PETITIONER/ JUDGMENT DEBTOR NO.2:

S.SAJI, S/O. M.N.SUDHAKARAN,
SAJI SADANAM, ELAVUMTHITTA,
KOZHENCHERRY TALUK.

BY ADV. SRI.B.S.SWATHY KUMAR,
ADV. SMT.BINDU SREEKUMAR.

RESPONDENTS/ DECREE HOLDER & JUDGMENT DEBTOR NO.1:

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1. **M/S. ICDS LTD.,**
   REGISTERED OFFICE AT SYNDICATE HOUSE,
   MANIPAL-576 119, REPRESENTED BY ITS P.A.HOLDER,
   K.K.BALAKRISHNA SHENOY, S/O. K.R.K.SHENOY,
   KODANPARAMBU, KIZHAKKUPURAM, CHENNAMANGALAM, NORTH PARAVUR, ERNAKULAM DISTRICT.

2. **K.R.SURESH, S/O. RAMACHANDRA PANICKER,**
   ARPANA BUILDERS AND CONTRACTORS, KURIANIPALLY,
   ULLANNOOR, KULANADA, KOZHENCHERRY TALUK.

BY

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 06/12/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 1071 OF 2007

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Dated this the 6th day of December, 2007.

O R D E R

This revision petition is preferred against the order of the District Judge, Pathanamthitta in E.A.1/04 in E.P.1/04. The decree holder has obtained a decree against the judgment debtors of which the first judgment debtor is the principal judgment debtor and the 2nd judgment debtor is the guarantor. The Court below found that the judgment debtors are having joint business at Chennai and they are having an income of Rs.1,00,000/- and further found that the principal judgment debtor has J.C.B. vehicles which is rented and that he is having landed properties.

2. So far as the 2nd judgment debtor is concerned the Court found that he did not file any objection and did not enter the box, whereas PW1 spoke about his means as well and therefore held that both are liable to be arrested. I do not find any fault with the order passed by the Court below because the liability of the surety is co-extensive with that of the principal debtor and when the matter is proved the Court

can proceed against him as well. But as the matter stands the beneficiary is the principal judgment debtor. If the surety can persuade the judgment debtor to pay the amount and wipe off the liability, he need not be sent to jail. Therefore, in order to give a breathing time to the 2nd judgment debtor to persuade the first judgment debtor to wipe off the liability, I direct the Court below to defer the arrest of the 2nd judgment debtor namely the Civil Revision Petitioner herein for a period of six weeks from today.

The C.R.P. is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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